

OLDAKER, BIDEN & BELAIR, LLP

ATTORNEYS AT LAW

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October 18, 2004

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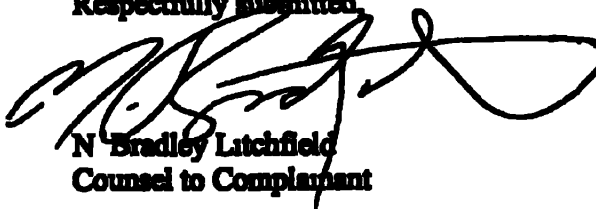
Subject Complaint filed by William J Lynch, Chairman, Rhode Island Democratic State Committee

Dear Mr Norton

Enclosed is a complaint that is hereby filed today with the Federal Election Commission against David W Rogers, Republican candidate for the US House of Representatives (1st CD of RI), and Rogers for Congress, his principal campaign committee for the 2004 election cycle

You will note that it is duly sworn to and notarized, and is otherwise in compliance with the form requirements of 2 U S C §437g(a)(1) and 11 CFR 111.4 Part 112 The complaint also includes two attachments consisting of seven pages

Respectfully submitted


**N Bradley Litchfield
Counsel to Complainant**

Enclosures (Original plus 3 copies)

2004 OCT 18 P 4 53

FEDERAL ELECTION COMMISSION
SECRETARIAT

2004 OCT 19 P 5 25

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of

**William J. Lynch, Chairman
Rhode Island Democratic State Committee**

v.

**David W. Rogers, Republican Candidate for
U.S. House of Representatives, 1st CD
of Rhode Island and
Rogers for Congress, Michael Rogers,
Treasurer**

MUR 5522
2004 OCT 19 P 4 53
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COMPLAINT

1. This Complaint is filed by the undersigned Complainant, William J Lynch, who is Chairman of the Rhode Island Democratic State Committee. It is filed with the Federal Election Commission ("FEC") pursuant to 2 U S C § 437g(a)(1) and 11 C F R § 111.4. The complaint is sworn to and signed by the Complainant, in the presence of a notary public, and is notarized. See below.

2. Complainant's address is Rhode Island Democratic State Committee
249 Roosevelt Avenue, Suite 202
Pawtucket, RI 02860

3. The Complaint is filed against David W Rogers whose address is [redacted] in Portsmouth, Rhode Island, 02871. Mr Rogers is a candidate in the 2004 general election for the United States House of Representatives in the First Congressional District of Rhode Island. The Complaint is also filed against his principal campaign

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4. Complainant alleges multiple violations of 2 U S C § 439a by David W

Rogers and his campaign committee, Rogers for Congress Upon information and belief, Complainant alleges that Rogers for Congress and David Rogers on several occasions converted property owned by the campaign committee (that is, the campaign contributor lists from 2001 through 2004), which were acquired or developed by the use of campaign funds, to the personal use of David Rogers Section 439a requires that campaign contributions to a Federal candidate's campaign be used only for authorized campaign expenditures, and provides further that campaign contributions "shall not be converted by any person to personal use " (Other explicit, non-personal uses of campaign funds are also permitted, such as donations to IRS-qualified charities, but those exceptions are clearly inapplicable to the facts alleged herein) The factual basis for these violations is set forth in paragraph 5

5. Based upon information and belief, Complainant alleges that Mr Rogers, as a Congressional candidate, filed a personal financial disclosure statement with the Clerk of the U S House of Representatives on or about August 2, 2004, pursuant to the Ethics in Government Act of 1978, as amended, 5 U S C app 4, §§ 101—111 This financial statement contains pertinent information reported by Mr Rogers, namely, receipt of salary income from BMW Lists (Alexandria, VA) in the amounts of \$28,000 in 2004 (January through July) and \$44,000 in all of calendar year 2003 See Attachment A-2 In

a news media interview with *The Providence Journal*, published on October 5, 2004, Mr Rogers is reported to have stated, "the earnings [from BMW Lists] came from selling

~~them his contributor lists~~¹² See Attachment B-5-- Complainant believes that this reference to "contributor lists" means the fundraising lists developed and used by, or on behalf of, Mr Rogers' Congressional campaigns for the 2004 elections, and for the 2002 election cycle when he also was a candidate for Congress Complainant contends that because Mr Rogers received income from BMW Lists in 2003 and 2004, he apparently "sold" at least two separate lists and the "sale" of each list represents a separate violation of 2 U S C § 439a

6. Complainant contends that the contributor lists are assets and property of Rogers for Congress and/or Friends of David Rogers (FEC ID C00367045), which was Mr Rogers' authorized principal campaign committee for the 2002 election cycle, because they were acquired and developed as a result of expenditures made by either or both such committees using funds that were initially received by them as contributions As property or assets of Mr Rogers campaign committees, including Rogers for Congress, the use of the contributor lists are subject to the same legal prohibitions as are contributions in the form of contribution checks deposited in the bank accounts of Rogers for Congress Thus, it is a blatant and egregious violation of 2 U S C § 439a for Mr Rogers to receive "salary" or any other form of payment from any company (or similar entity) in exchange for his "sale" of property that is owned by Rogers for Congress and/or Friends of David Rogers Furthermore, the contributor lists may not be lawfully donated, or loaned, or assigned, or otherwise made available to Mr Rogers, or any other

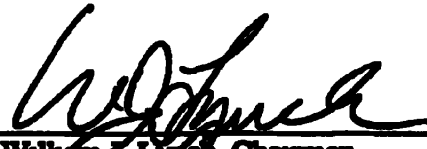
person on his behalf, as though the lists were his personal property To the contrary,
Complainant contends that the lists are solely the property of either Rogers for Congress,
or Friends of David Rogers, or both

7 Complainant further alleges that the above described violation may involve
conduct by Mr Rogers as "Any person who knowingly and willfully commits a violation
of any provision of this Act [Federal Election Campaign Act, as amended most recently
by the Bipartisan Campaign Reform Act of 2002] which involves the making, receiving,
or reporting of any contribution, donation or expenditure " that exceeds more than
\$25,000 in a calendar year 2 U S C § 437g(d)(1) The total payment of \$44,000 in
calendar year 2003 for the prohibited and unlawful "sale" of the contributor lists by Mr
Rogers to BMW Lists exceeds \$25,000 Such a violation is subject to criminal
prosecution as a felony by the Attorney General of the United States and may upon
conviction result in a prison sentence of up to 5 years Complainant urges the FEC to
consider referral of the allegations in this Complaint to the Attorney General of the
United States for his review as "an apparent violation" of the Act See 2 U S C §
437g(c)

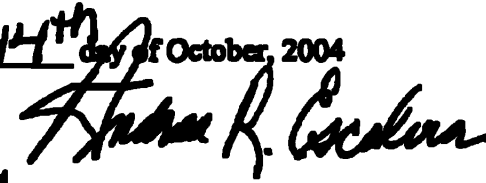
(Attachments A & B)

COMPLAINANT

Oct. 14, 2004
Date


William J. Lynch, Chairman
Rhode Island Democratic State Committee

Sworn to and subscribed before me on this 14th day of October, 2004


4

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FAX

2004 JUL -2 P:12:13

OK 2004 JUL -2 P:12:13

UNITED STATES HOUSE OF REPRESENTATIVES FINANCIAL DISCLOSURE STATEMENT		FORM 8 For use by members and new employees	
Period Covered: January 1, 2004 - PRESENT			
DAVID WARREN ROBERTS		Payroll	
PORTSMOUTH RI 02871			
Candidate for this House of Representatives		Date of Election: 11/2/04	
New officer or employee		Employing Office:	

A \$200 penalty shall be assessed against anybody who files more than 30 days late.

In all sections, please type or print clearly in block letters.

PRELIMINARY INFORMATION -- ANSWER EACH OF THESE QUESTIONS

1. Did you or your spouse have "unearned" income (e.g., salary or fees) of \$200 or more from any source in the reporting period? If yes, complete and attach Schedule M.	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	10. Did you hold any reportable positions as or before the date of filing in the calendar year or in the prior year? If yes, complete and attach Schedule M.	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
2. Did you, your spouse, or a dependent child receive "unearned" income of more than \$200 in the reporting period or hold any reportable positions more than 30 days at the end of the period? If yes, complete and attach Schedule M.	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	11. Did you have any reportable agreements or arrangements with an outside entity? If yes, complete and attach Schedule M.	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
3. Did you, your spouse, or a dependent child have any reportable transactions from this reporting period? If yes, complete and attach Schedule M.	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	12. Did you receive compensation of more than \$5,000 from a single source in the last year? If yes, complete and attach Schedule M.	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

Each question in this part must be answered and the appropriate schedule attached for each "Yes" response

EXCLUSION OF SPOUSE, DEPENDENT, OR TRUST INFORMATION -- ANSWER EACH OF THESE QUESTIONS

TRANSFERS--Details regarding "Qualified Blind Trusts" approved by the Committee on Standards of Official Conduct and certain other "excepted trusts" need not be disclosed. Have you excluded from this report details of such a trust benefiting you, your spouse, or a dependent child? (See instructions, pages 10-11)	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
EXEMPTION--Have you excluded from this report any other assets, "unearned" income, transactions, or liabilities of a spouse or dependent child because they needed time to file for exemption?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

CERTIFICATION -- THIS DOCUMENT MUST BE SIGNED BY THE REPORTING INDIVIDUAL AND DATED

This Financial Disclosure Statement is required by the Ethics in Government Act of 1978, as amended. The Statement will be available to any requesting person upon written application and will be reviewed by the Committee on Standards of Official Conduct or its designees. Any individual who knowingly and willfully fails to file this report may be subject to civil penalties and criminal sanctions (See 5 U.S.C. app. 4, § 104 and 18 U.S.C. § 1001).	
I CERTIFY that the statements I have made on this form and all attached schedules are true, complete and correct to the best of my knowledge and belief.	Signature of Reporting Individual: [Signature]
	Date: 7/17/04

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Challenger redefining his image as nuanced, closer to the center

02:09 AM EDT on Tuesday, October 5, 2004

BY KATHERINE GREGG
Journal State House Bureau

Related stories

2nd District candidates in joint appearance
Rogers first opening TV solve against Kennedy
See all the candidate profiles

EDITOR'S NOTE: This is the second in a series of candidate profiles The Journal will publish about the races for the U.S. Congress. Yesterday featured a profile of Patrick Kennedy, the Democratic incumbent. Starting Oct. 11, The Journal will publish profiles of the candidates for the 2nd Congressional District.

In his first campaign to unseat "Sen. Ted Kennedy's liberal offspring," Republican congressional candidate Dave Rogers was a darling of conservatives from here to California.

The National Right to Life Committee steered thousands of dollars his way, as did the George Mining Association, the Society of Independent Gasoline Marketers and House Majority Leader Tom DeLay's Americans for a Republican Majority — also known as ARMPAC.

But as Rogers now tells his audiences on the Rhode Island campaign trail: "I got crushed like a bug."

This time out, the 38-year-old former Navy SEAL is making more of an effort to distance himself from the gun lobby, the "no-exceptions" wing of the antiabortion movement and even the Bush administration.

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Journal photo / Connie Groch
Republican congressional candidate Dave Rogers

His fundraising letters still say "President Bush and Vice President Cheney need Republicans with experience like mine." But on the stump, he criticizes the president's handling of the war.

And he has welcomed the endorsement of U.S. Sen. Lincoln Chafee, a liberal Republican who is known for backing President Bush.

Rogers is also making a conscious effort to look "nicer" than the guy he saw when he watched himself, on tape, in televised debates two years ago with U.S. Rep. Patrick Kennedy, his Democratic rival then and now for Rhode Island's 1st Congressional District seat.

"For us to make any headway, particularly with the field as crowded as it was, we needed to be overtly aggressive," Rogers said recently of his 2002 victory in a three-way Republican primary.

But that "led into the concept that not only was I a conservative, but I was a mean one. Hopefully, we can refine those impressions this time."

On a recent visit to Roger Williams University, for example, an easygoing Rogers told Prof. June Speakman's political science students he had revised his thinking about President Bush's handling of the Iraq war.

Rogers said he still believes the war was justified as a means of removing the "genocidal lunatic [Saddam Hussein] . . . who lobbed missiles into Israel during the first Gulf War" and drawing terrorists "onto a battlefield of our choosing."

But, he said of the Bush administration, "I do believe they under-estimated the intelligence of the American people and our ability to understand the complex reasons for doing it."

Rogers told the students he does not subscribe to the argument that we should not have gone into Iraq because we did not find the weapons of mass destruction that Mr. Bush said were there.

"I don't buy that. But I also don't buy the way the administration sold it," he said. "Very stupidly, we used that as our whole rationale for going in."

"We [also] telegraphed this play from way out. We told them we're coming to get you and this is what we expect to find when we get there. And so if you have it all right there by the door when we get there, it would be convenient for us. Don't hide it, please, and please don't take it out of the country."

Rogers is well aware of how his commentary to the Roger Williams students might be construed, envisioning the headline "Republican Candidate Said President Pulled a Fast One on the American People."

But Rogers said he does not believe the president and

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his advisers lied "These people believed it "

At home later, in the tidy, white clapboard ranch house in Portsmouth that he shares with his wife, Nancy, and two sons, a cat, a dog, two parakeets and a menagerie of turtles and fish and geckos, Rogers acknowledged he does not make it easy for audiences to pigeonhole him

"Very nuanced. Very Kerry-esque, I think, what I just said. But that's what I believe," he said of his Iraq stance.

ROGERS WAS harder on himself than the students were

After peppering the candidate with questions, Ethan Maron, 21, said he still leans Democratic, but "I thought Mr. Rogers came off as a really good guy."

"Socially, he's a liberal," concluded Joe Santoro, 21, of North Providence.

Rogers had just told the students he would "not support gay marriage" as a congressman from heavily Catholic Rhode Island, but that he has no problem "personally" with committed gay relationships "because I'm a Republican, because I believe in monogamy . . . fidelity responsibility "

He told them he would support the renewal of the assault-weapons ban that recently expired

Elaborating later, he said. "We are talking about Mac-10s and we're talking about MP-5s or the repeatability of certain large-caliber weapons. I don't understand what kind of sportsmen need that "

"On the abortion stuff, I'm on the pro-life side of the fence. There's no question about that," he said, "but I'm not all the way over to the right."

"What I see," said Speakman, "is someone acting like a Rhode Island Republican. . . He has clear convictions. But he also understands that this is a state where it is permissible for Republicans to criticize the president "

During the class, Speakman raised Rogers' dilemma on the head when she asked him to contrast his position on Iraq with his opponent's

Rogers' reply: "In terms of our positions, they are remarkably similar "

And therein lies the rub for Rogers, how to redraw his image, move closer to the center and still build a war chest.

"As a political scientist," mused Speakman, "I am curious what David would say if you said to him: Why are you raising money from these right-wingers when your ideas appear to be more moderate? It may be as simple as: That is where the money is "

IN 2002, Rogers raised a respectable \$2,009,592. But Kennedy beat him at the polls 60 percent to 37 percent, after outspending him \$2.9 million to \$1.972 million

Rogers has raised more than \$1.6 million so far in this

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election cycle. By his own count, 93 percent comes from out-of-state donors. By early September, however, when he filed his last campaign-finance report, he had spent most of that money: \$1.366 million.

The lion's share went to his consultant, Wilson Grande Communications of Alexandria, Va., salaries for his small Rhode Island staff; and the direct-mail companies -- including BMW Direct, BMW Lists, Century Data Systems and MDI Imaging and Mail -- that have been churning out his fundraising letters, and providing potential donor lists.

One recent letter says: "I am sure conservatives all across America are excited to see a liberal Kennedy on the run. . . . Recent good news is that since I first announced my candidacy last January, the race has tightened up considerably."

"I'm dedicating every last penny in this campaign to swing the last 5 percent of the vote I need to win my race for the U.S. Congress on Tuesday, Nov. 2, against Patrick Kennedy."

Asked the basis for suggesting he was within striking distance of Kennedy, Rogers said, "I think it."

BORN IN Fort Ord, Calif., on Dec. 29, 1965, Rogers moved to Rhode Island as a boy when his father, Warren Rogers, who had worked in the Pentagon's budget office, was hired to develop a strategic decision-making program at the Naval War College in Newport.

He attended the private Pennfield School in Portsmouth, where his sons -- Scott, 8, and Patrick, 10 -- now attend. He graduated from the Williston Northampton School in Easthampton, Mass.

He attended Tulane University in New Orleans on an ROTC scholarship, but dropped out midway through his sophomore year -- at a point when, he says, he would have gotten "booted into the Fleet Navy" had he not enlisted.

"I hadn't actually failed anything," but "I was just running wild and having a great time. I wasn't showing up for classes. I wasn't showing up for drills. I was just an idiot."

In the Navy from 1986 to 1994, he found a niche as a member of the Navy's SEAL (Sea, Air and Land) Team Two at the Naval Amphibious Base in Little Creek, Va. He was part of the team that went to Panama during the 1989 U.S. invasion that led to the arrest of Gen. Manuel Noriega.

By his own account, he was deployed to the Persian Gulf to help prepare for Operation Desert Storm, and later specialized in winter warfare.

Leaving the Navy in 1994 when his first son was born, he settled in Portsmouth, and went to work for Warren Rogers Associates, a company founded by his father that developed a system for anticipating when and where an underground gasoline storage tank might leak.

Eight years later, Rogers left his father's business to focus on his first race against Kennedy.

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Last year, his wife made \$54,562 as a nurse at the Naval Ambulatory Care Center in Newport.

His income last year, \$44,000, came from BMW Lists, the direct-mail list acquisition company that has had a key role in his fundraising. The company has not responded to inquiries, but Rogers said the earnings came from selling them his contributor lists.

Through August of this year, he earned another \$28,000 from BMW Lists, and \$7,000 from a California-based defense contractor, Tetra Tech EMI, for his eight-week role in what the company describes as a security analysis of the San Diego Unified Port District.

Taking a break from door-to-door campaigning in Barrington recently, Rogers went on radio to decry Kennedy's recent vote to give lawmakers — including Kennedy himself — a \$4,000 raise to \$162,000 a year.

Rogers told WPRO's Dan Yorles: "The only guy I can find in the region who voted for a \$4,000 raise is the same guy who says that he's 'never worked a day in his life.'"

"I mean, right now, the economy is tough. People are having a harder time making ends meet. . . To me, it just seems like Patrick really doesn't understand who he is representing."

"When I get elected to Congress," Rogers said later, "it will be the most money I've made in my life."

More headlines...

Challenger redefining his image as nuanced, closer to the center

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